

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FELIX WALLS,

Petitioner,

Case No. 09-13006

v.

Honorable Patrick J. Duggan

ERIC HOLDER, THERESA M.  
HRYSHKO, and MARY F. WISNESKI,

Respondents.

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**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S "MOTION FOR  
COURT REPORTER[S] SOUND TAPE[S] PURSUANT TO 28 U.S.C. § 753(b)"**

Petitioner, a federal prisoner, filed a *pro se* petition for a writ of mandamus pursuant to 28 U.S.C. § 1361 on July 29, 2009. In the petition, Petitioner seeks to obtain transcripts and recordings of his federal criminal trial in the District Court for the Eastern District of Michigan over which the Honorable Robert H. Cleland presided. *United States v. Walls*, No. 92-80236. Petitioner neither paid the filing fee for a civil action (\$350.00) nor applied in the manner required by law to proceed in forma pauperis. Therefore, on August 25, 2009, this Court issued an Order of Deficiency for Prisoner Civil Action, directing Petitioner to pay the filing fee or file the documents required under 28 U.S.C. § 1915(a)(2) to proceed without prepayment of fees and costs within thirty (30) days from the date of the order. When Petitioner failed to correct the deficiency, this Court dismissed this action without prejudice on October 13, 2009.

On July 30, 2010, Petitioner filed a "Motion for Court Reporter[s] Sound Tape[s]"

Pursuant to 28 U.S.C. § 753(b).” This Court must deny Petitioner’s motion without prejudice. As set forth above, there is no pending action in which to file the motion due to Petitioner’s failure to pay the filing fee or submit the documentation required to proceed without prepayment of fees and costs. Petitioner cannot avoid the filing fee by filing a motion seeking the same relief that he sought in his petition.

Accordingly,

**IT IS ORDERED**, that Petitioner’s “Motion for Court Reporter[s] Sound Tape[s] pursuant to 28 U.S.C. § 753(b)” is **DENIED WITHOUT PREJUDICE**.

PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Date: August 17, 2010  
Copy to:  
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Federal Correctional Institution  
P.O. Box 1000  
Oxford, WI 53952